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HOUSE BILL 2151 By
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SENATE BILL 2287
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AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 5, relative to the offense of gambling by computer.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 17, Part 5, is amended by adding Section 2 of this act as a new, appropriately designated section.

SECTION 2. (a) As used in this section, unless the context otherwise requires:

(1) "Client" means anyone using a computer to access a computer server.

(2) "Computer" includes an electronic, magnetic, optical, or other high-speed data processing device or system performing logical, arithmetic, and storage functions, and includes any property, data storage facility, or communications facility directly related to or operating in conjunction with such device or system.

"Computer" shall not include an automated typewriter or typesetter, a machine designed solely for word processing, or a portable hand-held calculator, nor shall "computer" include any other device which might contain components similar to those in computers but in which the components have the sole function of controlling the device for the single purpose for which the device is intended.

(3) "Computer network" means a set of related, remotely connected devices and communication facilities including at least one computer system with capability to transmit data through communication facilities.

(4) "Computer services" means providing access to or service or data from a computer, a computer system, or a computer network.

(5) "Computer software" means a set of computer programs, procedures, and associated documentation concerned with operation of a computer system.

(6) "Computer system" means a set of functionally related, connected or unconnected, computer equipment, devices, or computer software.

(7) "Home Page" means the index or location for each computer site on the World Wide Web.

(8) "Internet" means an interactive computer service or system or an information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, and includes, but is not limited to, an information service, system, or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to, a World Wide Web page, newsgroup, message board, mailing list, or chat area on any interactive computer service or system or other online service.

(9) "Server" means a computer that listens for and services a client.

(10) "World Wide Web" means a server providing connections to mega lists of information on the Internet; it is made up of millions of individual web sites linked together.

(b) A person commits the offense of gambling by computer who knowingly:

(1) Commits the offense of gambling as prohibited by §39-17-502 by means of the Internet; or

(2) Designs, develops, manages, supervises, produces, establishes, maintains, or operates an Internet site that permits gambling as defined by §39-17-501 by means of the Internet.

(c)(1) A violation of subsection (b)(1) is a Class B misdemeanor.

(2) A violation of subsection (b)(2) is a Class E felony; provided, however, the fine for each violation shall not exceed twenty thousand dollars (\$20,000).

(d) Nothing in this section shall prohibit, limit, or otherwise restrict the purchase, sale, exchange, or other transaction related to stocks, bonds, futures, options, commodities, or other similar instruments or transactions occurring on a stock or commodities exchange, brokerage house, or similar entity.

(e) The providing of Internet or other on-line access, transmission, routing, storage, or other communication-related services, or Web Site design, development, storage, maintenance, billing, advertising, hypertext linking, transaction processing, or other site-related services, by telephone companies, Internet Service Providers, software developers, licensors, or other such parties providing such services to customers in the normal course of their business, shall not be considered gambling by computer even though the activities of such customers using such services may constitute gambling by computer for the purposes of this section. The provisions of this subsection shall not exempt from criminal prosecution any telephone company, Internet Service Provider, software developer, licensor, or other such party if its

primary purpose in providing such service promotes gambling as prohibited by §39-17-503.

SECTION 3. This act shall take effect July 1, 2000, the public welfare requiring it.